

BILL LOCKYER, Attorney General  
of the State of California  
GAIL M. HEPPELL, State Bar No. 84134  
Supervising Deputy Attorney General  
MARA FAUST, STATE BAR No. 84134  
Deputy Attorney General  
California Department of Justice  
1300 I Street, Suite 125  
P.O. Box 944255  
Sacramento, California 94244-2550  
Telephone: (916) 324-5161  
Facsimile: (916) 327-2247

Attorneys for Complainant

BEFORE THE  
PHYSICAL THERAPY BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 1D-2001-62902

**MARY BETH KIEFER**  
2401 J Street  
Sacramento, CA 95816

**A C C U S A T I O N**

Physical Therapy License No. PT-19549,  
Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell ("Complainant") brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On or about January 4, 1994, the Physical Therapy Board issued Physical Therapy License Number PT 19549 to Mary Beth Kiefer ("Respondent"). The Physical Therapy License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2005, unless renewed.

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4. Section 2660 of the Code states:

(a) Advertising in violation of section 17500 of the Business and Professions Code.

(c) Procuring or aiding or offering to procure or aid in criminal abortion.

(e) Impersonating or acting as a proxy for an applicant in any examination given under this chapter.

(g) Addiction to the excessive use of any habit-forming drug.

(i) Conviction of a violation of any of the provisions of this chapter or of the State Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of the State Medical Practice Act.

(k) The aiding or abetting of any person to engage in the unlawful practice of practice of physical therapy.

5. Section 2661.5 of the Code states in relevant part that:

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6. Section 725 of the Code states in relevant part that:

Repeated acts of clearly excessive prescribing or administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of the community of licensees is unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist, physical therapist, chiropractor, or optometrist.

7. Section 810 of the Code states:

(a) It shall constitute unprofessional conduct and grounds for disciplinary action, including suspension or revocation of a license or certificate, for a health care professional to do any of the following in connection with his or her professional activities:

(1) Knowingly present or cause to be presented any false or fraudulent claim for payment of a loss under a contract of insurance.

(2) Knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented or used in support of any false or fraudulent claim.

8. Section 2620 of the Code states that:

Physical therapy means the art and science of physical or corrective rehabilitation or of physical or corrective treatment of any bodily or mental condition of any person by the use of the physical, chemical, and other properties of heat, light, water, electricity, sound, massage, and active, passive, and resistive exercise, and shall include physical therapy evaluation, treatment planning, instruction and consultative services. The use of roentgen rays and radioactive materials, for diagnostic and therapeutic purposes, and the use of electricity for surgical purposes, including cauterization, are not authorized under the term "physical therapy" as used in this chapter, and a license issued pursuant to this chapter does not authorize the diagnosis of disease.

9. Section 2261 of the Code provides in part that:

Knowingly making or signing any document directly or indirectly related to the practice that falsely represents the actual facts constitutes unprofessional conduct.

10. Section 22262 of the Code states:

Altering or modifying the medical record of any person, with fraudulent intent, or creating any false medical record, with fraudulent intent, constitutes unprofessional conduct.

In addition to any other disciplinary action, the Division of Medical Quality or the California Board of Podiatric Medicine may impose a civil penalty of five hundred dollars (\$500) for a violation of this section.

**FIRST CAUSE FOR DISCIPLINE**  
**(Excessive Prescribing of Physical Therapy Treatment)**  
**[Bus & Prof Code §§ 725, 2660(h)]**

11. Respondent Kiefer is subject to disciplinary action under sections 725 and

2660 of the Code for excessive prescribing of physical therapy treatment and gross negligence based on the following facts:

Patient C.G.K.

(1) On March 2, 1998, patient C.G.K. was referred to Kinections Sports Medicine and Physical Therapy, Inc., for physical therapy treatment following a motor vehicle accident.

(2) C.G.K. was first seen by respondent Kiefer, P.T. from March 2, 1998 through June 26, 1998. Patient C.G.K. was treated for 23 visits from respondent Kiefer. During this period, respondent Kiefer did no re-evaluations nor did respondent address the patient's complaint of increased pain in April 1998 through June 1998.

(3) On June 26, 1998, patient C.G.K. was treated by respondent Hartwig, P.T.

(4) On July 1, 1998, physical therapy care of C.G.K. was assumed by respondent Cedros, a physical therapy assistant, allegedly under the supervision of respondent P.T. Hartwig. Respondent Cedros treated this patient for 42 visits from July 1, 1998 through March 24, 1999. In this period, there are no re-evaluations of patient C.G.K. and there are no consultations recorded between P.T. Hartwig and P.T.A. Cedros.

12. Respondent Kiefer's treatment of C.G.K. constitutes excessive prescribing of physical therapy and gross negligence in that she treated the patient without medical diagnosis, failed to appropriately communicate with the referring physician, and failed to perform appropriate re-evaluation of the patient.

**SECOND CAUSE FOR DISCIPLINE**  
**(Gross Negligence-Documentation)**  
**[Bus. & Prof. Code § 2660(h)]**

13. Complainant realleges paragraph 11 above as if fully set forth at this point.

(1) Respondent Kiefer failed to produce and maintain adequate documentation of the physical therapy treatments provided to patient C.G.K. in violation of section 2660 of the Code which constitutes gross negligence.

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**THIRD CAUSE FOR DISCIPLINE**  
**(Excessive Prescribing)**  
**[Bus. & Prof. Code § 725, 2260(h)]**

14. Respondent Kiefer is subject to disciplinary action under sections 725 and 2660 of the Code for excessive prescribing of physical therapy treatment and gross negligence based on the following facts:

Patient A.L.

(1) Patient A.L. was seen at Kinections Sports Medicine and Physical Therapy, Inc. for 23 physical therapy treatments between April 3, 2000 through May 30, 2000. All treatments were billed under respondent Kiefer's license.

(2) A.L. was treated by respondent Cedros PTA for seven visits and Leslie Shaw, CMT, for 16 visits with only one co-signature by respondent Kiefer, and no indication of supervision by respondent Kiefer.

(3) No objective measurements were taken of patient A.L. to show any progress and no physical therapy notes were made by respondent Kiefer.

15. Respondent Kiefer's treatment of A.L. constitutes excessive prescribing of physical therapy and gross negligence, as respondent failed to adequately communicate with the referring physician and failed to track any progress.

**FOURTH CAUSE FOR DISCIPLINE**  
**(Dishonest Billing)**  
**[Bus. & Prof. Code § 810(a)(1) & (2), 2262, 2261, 2660(l)]**

16. Complainant realleges paragraph 14 above as if fully set forth at this point.

17. Respondent Kiefer is subject to disciplinary action under sections 810(a)(1) and (2), 2262, 2261, and 2660(l) based on the following facts:

(1) Since no properly supervised physical therapy treatments were provided for 22 out of 23 therapy treatments, the patient was overbilled \$6,700.

18. Respondent Kiefer's treatment of A.L. constitutes dishonest billing and gross negligence in that she failed to properly supervise 22 physical therapy treatments and failed to track the patient's progress.

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1 **FIFTH CAUSE FOR DISCIPLINE**  
2 **(Aiding and Abetting the Unlicensed Practice of Physical Therapy)**  
3 **[Bus. & Prof. Code § 2660(k)]**

4 19. Complainant realleges paragraph 14 above as if fully set forth at this point.

5 (1) Respondent Kiefer employed physical therapy assistants and aides in  
6 the treatment of patient A.L. without adequate supervision in violation of section 2660(k), in that  
7 respondent Kiefer aided and abetted a person to both engage in the unlawful treatment of physical  
8 therapy and to engage in excessive prescribing of physical therapy.

9 **SIXTH CAUSE FOR DISCIPLINE**  
10 **(Gross Negligence)**  
11 **[Bus. & Prof. Code § 2660(h)]**

12 20. Complainant realleges paragraph 14 above as if fully set forth at this point.

13 21. Respondent failed to produce and maintain adequate documentation of the  
14 physical therapy treatments provided to patient A.L. in violation of section 2660 of the Code which  
15 constitutes gross negligence.

16 **SEVENTH CAUSE FOR DISCIPLINE**  
17 **(Excessive Prescribing)**  
18 **[Bus. & Prof. Code § 725, 2660(h)]**

19 22. Respondent Kiefer is subject to disciplinary action under sections 725 and  
20 2660 of the Code for excessive prescribing of physical therapy treatment and gross negligence based  
21 on the following facts:

22 **Patient R.C.**

23 (1) Patient R.C. was seen at Kinectons Sports Medicine and Physical  
24 Therapy, Inc., for 100 physical therapy treatments between March 5, 1997 and September 9, 1998.  
25 All treatments were billed under respondent Kiefer's license. Respondent Kiefer evaluated R.C. on  
26 March 4, 1997 and made a note for a visit on May 14, 1997.

27 (2) R.C. was treated by respondent Cedros, PTA, for all visits with only  
28 two co-signatures by respondent Kiefer, and no indication of supervision or intervention by  
respondent Kiefer.

(3) For the return visits covering June 2, 1998 through September 8, 1998,  
no evaluation, progress notes, or discharge summary exists and there is no documentation of PT/PTA

1 conferences.

2           23.     Respondent Kiefer's treatment of R.C. constitutes excessive prescribing of  
3 physical therapy and gross negligence, as respondent failed to track the patient's progress.

4                           **EIGHTH CAUSE FOR DISCIPLINE**

5                                   **(Dishonest Billing)**

6                           **[Bus. & Prof. Code § 810(a)(1) & (2), 2262, 2261, 2660(l)]**

7           24.     Complainant realleges paragraph 22 above as if fully set forth at this point.

8           25.     Respondent Kiefer is subject to disciplinary action under sections 810(a)(1)  
9 and (2), 2262, 2261, and 2660(l) based on the following facts:

10                   (1)     Since no properly supervised physical therapy treatments were  
11 provided for approximately 98 out of 100 therapy treatments, the patient and Medicare were  
12 overbilled approximately \$3,500.

13           26.     Respondent Kiefer's treatment of R.C. constitutes dishonest billing and gross  
14 negligence in that she failed to properly supervise approximately 98 physical therapy treatments and  
15 failed to track the patient's progress.

16                           **NINTH CAUSE FOR DISCIPLINE**

17                                   **(Aiding and Abetting the Unlicensed Practice of Physical Therapy)**

18                           **[Bus. & Prof. Code § 725, 2660(k)]**

19           27.     Complainant realleges paragraph 21 above as if fully set forth at this point.

20                   (1)     Respondent Kiefer employed physical therapy assistants and aides in  
21 the treatment of R.C. without adequate supervision in violation of section 2660(k), in that respondent  
22 Kiefer aided and abetted a person to both engage in the unlawful treatment of physical therapy and  
23 to engage in excessive prescribing of physical therapy.

24                           **TENTH CAUSE FOR DISCIPLINE**

25                                   **(Gross Negligence-Documentation)**

26                           **[Bus. & Prof. Code § 2660(h)]**

27           28.     Complainant realleges paragraph 21 above as if fully set forth at this point.

28           29.     Respondent failed to produce and maintain adequate documentation of the  
physical therapy treatments provided to patient R.C. in violation of section 2660 of the Code which  
constitutes gross negligence.

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**ELEVENTH CAUSE FOR DISCIPLINE**  
**(Excessive Prescribing)**  
**[Bus. & Prof. Code § 725, 2660(h)]**

30. Respondent Kiefer is subject to disciplinary action under sections 725 and 2660 of the Code for excessive prescribing of physical therapy treatment and gross negligence based on the following facts:

Patient J.G.

(1) Patient J.G. was seen at Kinections Sports Medicine and Physical Therapy, Inc., for 63 physical therapy treatments between November 11, 1998 through June 18, 1999. Respondent Kiefer evaluated J.G. on November 11, 1998. All treatments were billed under respondent Kiefer's license.

(2) J.G. was treated by respondent Cedros, PTA, for all 63 visits with respondent Kiefer co-signing less than 30 of the visits.

(3) No objective measurements are in the record to indicate progress or lack of progress of patient J.G. There are no progress notes except for March 19, 1998, no documented PT/PTA conferences, and no written discharge summary.

31. Respondent Kiefer's treatment of J.G. constitutes excessive prescribing of physical therapy and gross negligence in that she failed to track the patient's progress.

**TWELFTH CAUSE FOR DISCIPLINE**  
**(Dishonest Billing)**  
**[Bus. & Prof. Code § 810(a)(1) & (2), 2262, 2261, 2660(l)]**

32. Complainant realleges paragraph 30 above as if fully set forth at this point.

33. Respondent Kiefer is subject to disciplinary action under sections 810(a)(1) and (2), 2262, 2261, and 2660(l) based on the following facts:

(1) Since there were no properly supervised physical therapy treatments for approximately 33 of 63 therapy treatments, Medicare and the patient were overbilled at least \$2,500.

34. Respondent Kiefer's treatment of J.G. constitutes dishonest billing and gross negligence in that she failed to properly supervise approximately 33 physical therapy treatments and failed to track the patient's progress.



**THIRTEENTH CAUSE FOR DISCIPLINE**  
**(Aiding and Abetting the Unlicensed Practice of Physical Therapy)**  
**[Bus. & Prof. Code § 725 and 2660(k)]**

35. Complainant realleges paragraph 30 above as if fully set forth at this point.

(1) Respondent Kiefer employed physical therapy assistants and aides in the treatment of patient J.G. without adequate supervision in violation of section 2660(k), in that respondent Kiefer aided and abetted a person to both engage in the unlawful treatment of physical therapy and to engage in excessive prescribing of physical therapy.

**FOURTEENTH CAUSE FOR DISCIPLINE**  
**(Gross Negligence-Documentation)**  
**[Bus. & Prof. Code § 2660(h)]**

36. Complainant realleges paragraph 30 above as if fully set forth at this point.

37. Respondent failed to produce and maintain adequate documentation of the physical therapy treatments provided to patient J.G. in violation of section 2660 of the Code which constitutes gross negligence.

**FIFTEENTH CAUSE FOR DISCIPLINE**  
**(Excessive Prescribing of Physical Therapy Treatment)**  
**[Bus & Prof Code §§ 725, 2660(h)]**

38. Respondent Kiefer is subject to disciplinary action under sections 725 and 2660(h) of the Code for excessive prescribing of physical therapy treatment and gross negligence based on the following facts:

Patient L.A.

(1) Patient L.A. was referred for physical therapy treatment to Kinectons Sports Medicine and Physical Therapy, Inc., in Sacramento on March 15, 2000.

(2) L.A. was first seen by Respondent Kiefer for an initial evaluation and treatment. Goals were set, and L.A. had three different physical therapists provide treatment while a patient at Kinectons.

(3) L.A. was seen for treatment by Respondent Kiefer from March 15, 2000 to January 9, 2001; David Hartwig then provided treatment for L.A. from January 16, 2001 to May 21, 2001; and Jason Marvin provided treatment from June 18, 2001 to at least July 23, 2001.

(4) From March 15, 2000, L.A. was seen for 15 visits until the first

1 progress note on April 26, 2000. Respondent noted reported improvement of at least 40%. No  
2 objective measurements were included to gauge progress.

3 (5) Approximately two months and 16 visits later, a progress note on June  
4 13, 2000, indicates that patient L.A. was improving, yet it does not include any objective, reasonable  
5 indication of improvement.

6 (6) On January 16, 2001, respondent indicates that patient L.A. reports  
7 an improvement of 40%.

8 (7) Respondent's treatment records for L.A. indicate that respondent  
9 prescribed a home exercise program on several occasions, but no detail is provided regarding  
10 frequency of exercise or L.A.'s response to the exercise program.

11 (8) L.A. was seen by respondent and the other physical therapists at  
12 Kinections at least through July 23, 2001, at which point the patient had made a total of 96 visits for  
13 physical therapy.

14 (9) L.A. was treated by physical therapy assistants and physical therapy  
15 aides at Kinections without adequate supervision by any of the physical therapists in charge of her  
16 treatment.

17 39. Respondent Kiefer's treatment of L.A. constitutes excessive  
18 prescribing and gross negligence because she failed to document the progress in the home exercise  
19 program.

20 **SIXTEENTH CAUSE FOR DISCIPLINE**  
21 **(Aiding and Abetting the Unlicensed Practice of Physical Therapy)**  
22 **[Bus. & Prof. Code § 725 and 2660(k)]**

23 40. Complainant realleges paragraph 38 above as if fully set forth at this point.

24 (1) Respondent Kiefer employed physical therapy assistants and aides in  
25 the treatment of patient L.A.. without adequate supervision in violation of section 2660(k), in that  
26 respondent Kiefer aided and abetted a person to both engage in the unlawful treatment of physical  
27 therapy and to engage in excessive prescribing of physical therapy.

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**SEVENTHTEENTH CAUSE FOR DISCIPLINE**  
**(Excessive Prescribing of Physical Therapy Treatments)**  
**[Bus. & Prof. Code § 725, 2660(h)]**

41. Respondent Kiefer is subject to disciplinary action under sections 725 and 2660(h) of the Code for excessive prescribing of physical therapy services and gross negligence based on the following facts:

Patient D.C.

(1) Patient D.C. was referred for physical therapy treatment to Kinections Sports Medicine and Physical Therapy, Inc., on April 21, 1999. Four different physical therapists provided treatment for D.C. through September 25, 2001 for a total of 120 visits for physical therapy: Respondent Kiefer provided physical therapy treatment to D.C. from April 21, 1999 to December 27, 2000, then again for one visit on January 12, 2001; Respondent Hartwig took over treatment for D.C. from January 9, 2001 to May 29, 2001; Respondent Marvin took over treatment of D.C. from June 4, 2001 to August 29, 2001; and Respondent Motoyoshi took over treatment of D.C. on September 21, 2001.

42. Respondent Kiefer's treatment of D.C. constitutes excessive prescribing and gross negligence in that she failed to document any objective indications of progress by patient D.C., failed to implement a home exercise program for D.C. and failed to document progress or implementation of other treatment modalities

**EIGHTEENTH CAUSE FOR DISCIPLINE**  
**(Aiding and Abetting the Unlicensed Practice of Physical Therapy)**  
**[Bus. & Prof. Code § 725 and 2660(k)]**

43. Complainant realleges paragraph 41 above as if fully set forth at this point.

(1) Respondent employed physical therapy assistants and aides in the treatment of patient D.C. without adequate supervision in violation of section 2660, which constitutes gross negligence and unprofessional conduct.

**NINETEENTH CAUSE FOR DISCIPLINE**  
**(Gross Negligence)**  
**[Bus. & Prof. Code § 2660]**

41. Complainant realleges paragraph 41 above as if fully set forth at this point.

(1) Respondent failed to produce and maintain adequate documentation

1 of the physical therapy treatments provided to patient D.C. in violation of section 2660 of the Code  
2 which constitutes gross negligence.

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4 PRAYER

5 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
6 alleged, and that following the hearing, the Physical Therapy Board issue a decision:

7 1. Revoking or suspending Physical Therapy Number PT-19549, issued to Mary  
8 Beth Kiefer.

9 2. Ordering Mary Beth Kiefer to pay the Physical Therapy Board the reasonable  
10 costs of the investigation and enforcement of this case, pursuant to Business and Professions Code  
11 section 2661.5;

12 3. Taking such other and further action as deemed necessary and proper.

13 DATED: September 09, 2003.

14 Original Signed By:  
15 STEVEN K. HARTZELL  
16 Executive Officer  
17 Physical Therapy Board of California  
18 Department of Consumer Affairs  
19 State of California  
20 Complainant  
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